

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

KYLE YOUNG,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 1:22-cv-00161-CDB (SS)

ORDER ON STIPULATION FOR AWARD  
OF ATTORNEY FEES PURSUANT TO THE  
EQUAL ACCESS TO JUSTICE ACT, 28  
U.S.C. § 2412(d)

(Doc. 19)

Pending before the Court is the stipulated request of Plaintiff Kyle Young (“Plaintiff”) for the award of attorney’s fees pursuant to the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412(d), in the amount of \$5,450.00 to counsel for Plaintiff, Francesco Benavides.<sup>1</sup> (Doc. 19).

The parties agree that an award of attorney’s fees to counsel for Plaintiff should be made payable to Plaintiff, but if the Department of the Treasury determines that Plaintiff does not owe a federal debt, then the Commissioner shall cause the payment of fees, expenses, and costs to be made directly to Plaintiff’s counsel, Francesco Benavides. *Id.* at 2.

On December 20, 2024, the Court granted the Plaintiff’s motion for summary judgment and remanded the case pursuant to sentence four of 42 U.S.C. § 405(g) to the Commissioner for

<sup>1</sup> Both parties have consented to the jurisdiction of a U.S. magistrate judge for all proceedings in this action, in accordance with 28 U.S.C. § 636(c)(1). (Doc. 11).

1 further proceedings. (Doc. 17). Judgment was entered the same day. (Doc. 18). On January 10,  
2 2025, Plaintiff filed the pending stipulation for attorney fees as a prevailing party. (Doc. 19); *see*  
3 *Shalala v. Schaefer*, 509 U.S. 292, 300-02 (1993) (concluding that a party who wins a sentence-  
4 four remand order under 42 U.S.C. § 405(g) is a prevailing party). The initial 60-day deadline  
5 for filing of appeals (Fed. R. App. P. 4) falls on February 18, 2025. As such, Plaintiff's filing is  
6 timely. *Van v. Barnhart*, 483 F.3d 600, 607 (9th Cir. 2007). The Commissioner does not oppose  
7 the requested relief. (Doc. 19).

8       The EAJA provides for an award of attorney fees to private litigants who both prevail in  
9 civil actions (other than tort) against the United States and timely file a petition for fees. 28  
10 U.S.C. § 2412(d)(1)(A). Under the EAJA, a court shall award attorney fees to the prevailing  
11 party unless it finds the government's position was "substantially justified or that special  
12 circumstances make such an award unjust." *Id.* Here, the government did not show its position  
13 was substantially justified and the Court finds there are not special circumstances that would  
14 make an award unjust. Moreover, the government does not oppose Plaintiff's stipulated request.  
15 *See Sanchez v. Berryhill*, No. 1:16-cv-01081-SKO, 2018 WL 509817, at \*2 (E.D. Cal. Jan. 23,  
16 2018) (finding position of the government was not substantially justified in view of the  
17 Commissioner's assent to remand); *Knyazhina v. Colvin*, No. 2:12-cv-2726 DAD, 2014 WL  
18 5324302, at \*1 (E.D. Cal. Oct. 17, 2014) (same).

19       Plaintiff requests an award of \$5,450.00 in EAJA fees. (Doc. 19). The Ninth Circuit  
20 maintains a list of the statutory maximum hourly rates authorized by the EAJA, adjusted for  
21 increases in the cost of living, on its website. *See Thangaraja v. Gonzales*, 428 F.3d 870, 876-  
22 77 (9th Cir. 2005). Even assuming Plaintiff's counsel seeks the median of the published  
23 maximum rate associated with the years (2022 and 2023) during which he engaged in services in  
24 this case (which the Court computes as \$239.78),<sup>2</sup> the requested award would amount to  
25 approximately 22 hours of attorney time (not accounting for any paralegal time expended). The  
26 Court finds this reasonable and commensurate with the number of hours an attorney would need

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27       <sup>2</sup> *Statutory Maximum Rates Under the Equal Access to Justice*, available at  
28 <https://www.ca9.uscourts.gov/attorneys/statutory-maximum-rates/> (last visited January 14,  
2025), archived at <https://perma.cc/5P4T-9U4E>.

1 to have spent reviewing the certified administrative record in this case (364 pages; Doc. 13) and  
2 preparing a 12-page opening brief and four-page reply brief in support of a motion for summary  
3 judgment that raises two issues for the Court's review. (Doc. 14). With respect to the results  
4 obtained, Plaintiff's counsel obtained a favorable judgment remanding the case for further  
5 proceedings. (Doc. 17 at 24).

6 EAJA fees, expenses, and costs are subject to any offsets allowed under the Treasury Offset  
7 Program ("TOP"), as discussed in *Astrue v. Ratliff*, 560 U.S. 586 (2010). If the Commissioner  
8 determines upon effectuation of this order that Plaintiff's EAJA fees are not subject to any offset  
9 allowed under the TOP, the fees shall be delivered or otherwise transmitted to Plaintiff's counsel.

10 Accordingly, it is HEREBY ORDERED:

- 11 1. Plaintiff's stipulated request for attorney's fees pursuant to the EAJA (Doc. 19) is  
12 GRANTED; and
- 13 2. The Commissioner is directed to pay to Plaintiff as the prevailing party attorney's fees in  
14 the amount of \$5,450.00, pursuant to the terms set forth in the parties' stipulation. (Doc.  
15 19). Fees shall be made payable to Plaintiff, but if the Department of the Treasury  
16 determines that Plaintiff does not owe a federal debt, then the government shall cause the  
17 payment of fees, expenses, and costs to be made directly to Plaintiff's counsel, as set forth  
18 in the stipulation.

19 IT IS SO ORDERED.

20 Dated: January 14, 2025

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UNITED STATES MAGISTRATE JUDGE